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Westmoreland, on Stand, Defends His Reputation

CBS Raises Past Criticism in Media

By Eleanor Randolph
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NEW YORK, Nov. 29—Retired general William C. Westmoreland today defended his reputation on the witness stand as CBS attorney David Boies brought up past criticisms of the general in the media.

Westmoreland, who resumed testimony in his \$120 million libel suit against CBS after two days' absence because of back trouble, was lifting a thick document as Boies asked him whether the media had ever suggested that he "could be considered a war criminal for . . . things that went on in Vietnam."

Boies introduced into evidence a January 1971 Time magazine item that attributed to Telford Taylor—the chief U.S. prosecutor at the Nazi war-crimes trials in Nuremberg—a suggestion that "Westmoreland could be found guilty of Vietnam war crimes if he were to be tried by the same standard under

which the U.S. hanged Japanese General Tomayuki Yamashita."

Westmoreland said the article appeared while he was Army chief of staff and "certainly had an adverse affect on me . . ."

U.S. District Court Judge Pierre N. Leval, explaining Boies' tactic, told the jury that the Time article was not being admitted as fact, but as evidence of Westmoreland's reputation before the CBS broadcast.

Leval said that in a libel suit such as this one, in which Westmoreland contends that the 1982 CBS documentary damaged his 36-year reputation as a military man, "one of the avenues" for Boies is "to contest the proposition that [Westmoreland] had a good reputation."

Boies, on his fourth day of cross examination of the general, also listed criticisms of Westmoreland in a report by a House Select Committee on Intelligence, on the issues central to this case. The committee said Westmoreland used "dubious"

figures for enemy troops to support his contention that the war was being won in 1967—a basic thrust of CBS' broadcast. "The Uncounted Enemy: A Vietnam Deception."

The committee did not release the report but substantial "portions" were printed in 1976 by the Village Voice, Leval told the court.

Westmoreland, who spoke with little of his usual vigor today after a flareup of back trouble, did not seem up to the legal combat.

For example, Boies asked Westmoreland about a 1967 telegram in which he used a quote from former ambassador Henry Cabot Lodge that there was "some light at the end of the tunnel" in the war. "Did you believe that degree of optimism was justified?" Boies asked.

"I certainly did," Westmoreland answered.

Boies then handed the general a transcript of his pre-trial testimony in which Westmoreland said, "I've never used" the expression attributed to Lodge.

Westmoreland shrugged and said: "Well, frankly, when you asked me this at one of the 50 hours of depositions . . . , I did not recall that cable," adding that he had used quotation marks to signify that Lodge had said it first.

Special correspondent John Kennedy contributed to this report.